

3-4-8

DAC

#9

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor:	Frank Hermansen et al	Assignee:	California Crank Brothers, Inc.
Patent No.:	6,205,885	Serial No.:	09/391,709
Issued:	March 27, 2001	Filed:	September 8, 1999
Title:	Clipless Bicycle Pedal		

MAIL STOP: PETITIONS

Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED

AUG 1 2 2008

OFFICE OF PETITIONS

Dear Sir:

**REQUEST FOR RECONSIDERATION OF PETITION FOR ACCEPTANCE
OF DELAYED PAYMENT OF MAINTENANCE FEE UNDER
RULE 1.378(b)**

Petitioner hereby respectfully requests reconsideration of the April 9, 2008 Dismissal of its October 18, 2007 Petition. Enclosed herewith by way of additional evidence are declarations of Carl Winefordner and Frank Hermansen, co-inventors of the subject patent and principals of the patent owner, California Crank Brothers, and of their patent attorney, the undersigned, Leonard Tachner.

The Declarations of Messrs. Winefordner and Hermansen provide evidence that it was an apparent misunderstanding as to who would pay the maintenance fees for the subject patent and that they did not instruct Ms. Foreman, Mr. Tachner's office manager to not pay the maintenance fees. Mr. Winefordner also described how important is the subject patent and that it had been the normal course of having Mr. Tachner's firm pay the maintenance fees for other patents and that this patent was not an exception to that normal course. They indicate that they are 100% sure and without any doubt that they instructed Ms. Foreman to pay the maintenance fees on the '885 patent.

08/05/2008 SSANDARA 00000013 09391709

01 FC:1462

400.00 OP

REQUEST FOR RECONSIDERATION OF PETITION FOR ACCEPTANCE OF DELAYED
PAYMENT OF MAINTENANCE FEE UNDER RULE 1.378(b)

Leonard Tachner's Declaration describes the relevant events surrounding the delayed payment of the maintenance fee and the fact that Ms. Foreman made a profound clerical error based on her misunderstanding of the instructions from the client. He also explains that the misunderstanding stems primarily from Ms. Foreman's distraction, or confusion or unusual lack of dependable adherence to a client's instructions. He explains that after decades of her usual dependability and care in carrying out his and his client's instructions, he had reasonably come to expect accurate and true performance of her duties. Mr. Tachner also states that the misunderstanding of the client's instructions and resulting clerical error could be due in part to or exacerbated by the fact that this patent was based on an application prepared, filed and prosecuted by the client and not by Tachner's office and that this particular client had often done at least some of its own patent application preparation in order to reduce attorneys' fees before it attained its current success.

Based upon this new evidence, Mr. Tachner expresses his belief that the misunderstanding of the client's instructions by Ms. Foreman resulted in an erroneous docket entry (i.e., client to pay annuities) which was subsequently relied upon in the due course of Tachner's standard office process and that this resulted in the unavoidable delay of the maintenance fee payment. For all of the above-noted reasons, Petitioner earnestly solicits reconsideration of the dismissal and granting of the Petition to accept the delayed payment. Enclosed herewith is a check for the fee appropriate for such reconsideration per Patent Office rules.

The undersigned has found this episode to be an extremely stressful and frightening experience. First and foremost because a long term, valued client, is in danger of losing a very valuable patent because of a simple human misunderstanding that resulted in a clerical error of profound significance. Second, because if this request for reconsideration of the petition is found lacking, I am personally at risk for a staggering liability which would likely terminate a 36-year

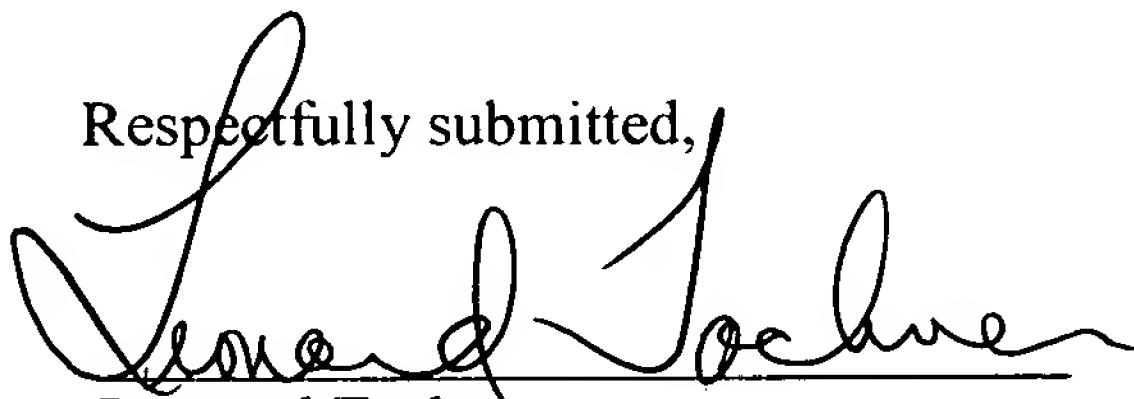
REQUEST FOR RECONSIDERATION OF PETITION FOR ACCEPTANCE OF DELAYED
PAYMENT OF MAINTENANCE FEE UNDER RULE 1.378(b)

career as a patent professional and negatively affect the rest of my life. Therefore, I respectfully request that any doubt that there may be as to the unavoidability of the delay in payment, be looked upon in the light most favorable to the granting of the petition.

Dated:

July 30, 2008

Respectfully submitted,



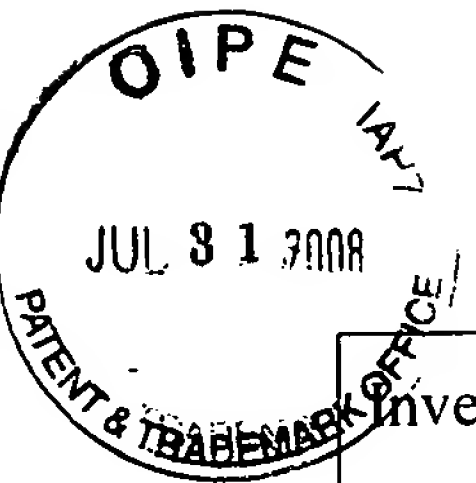
Leonard Tachner

Attorney of The Petitioner

Registration No. 26,344

(949) 752-8525 telephone

(949) 955-2415 telefax



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor:	Frank Hermansen et al	Assignee:	California Crank Brothers, Inc.
Patent No.:	6,205,885	Serial No.:	09/391,709
Issued:	March 27, 2001	Filed:	September 8, 1999
Title:	Clipless Bicycle Pedal		

MAIL STOP: PETITIONS

Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED

AUG 12 2008

OFFICE OF PETITIONS

Dear Sir:

**DECLARATION OF LEONARD TACHNER IN SUPPORT OF REQUEST FOR
RE-CONSIDERATION OF PETITION FOR ACCEPTANCE OF DELAYED
PAYMENT OF MAINTENANCE FEE UNDER
RULE 1.378(b)**

1. I am a registered patent attorney having registration No. 26,344. I was admitted as a patent agent in 1972 and as a patent attorney in 1974. I was admitted to the State Bar of California in 1973 and have remained in good standing since then. I have maintained a small law firm IP practice since 1978. Today I have a sole practice in Irvine, California. I have two secretaries working for me, Janis Foreman and Jodie Miller. Ms. Foreman is also my office manager and has been an employee of mine since the summer of 1978.

2. Over a period of almost thirty years I personally trained Ms. Foreman to carry out numerous duties in my practice. Included among these duties is that of being responsible for the timely payment of maintenance fees for our clients' issued U.S. patents. I have also instructed her in communicating with clients in a timely manner to learn whether they wish to have us pay maintenance fees for them so that we can anticipate being reimbursed for that payment and being paid a reasonable service fee. Over that period of time that I have come to rely on Ms. Foreman

DECLARATION OF LEONARD TACHNER Continued
Patent No. 6,205,885

to properly carry out these duties, she has paid hundreds of maintenance fees to the U.S. Patent and Trademark Office. I've also come to rely on Ms. Foreman to pay issue fees for allowed patent applications and to communicate with our clients and foreign associates in regard to payment of foreign patent annuities. In order to conduct a successful and efficient practice it had become necessary for me to expect that Ms. Foreman would continue to carry out my instructions in a reliable and accurate manner that was consistent with the wishes of our clients, as she had done for so many years.

3. My firm represents a company named California Crank Brothers (the Petitioner herein), and its two owners, Carl Winefordner and Frank Hermansen who are the inventors named in U.S. Patent No. 6,205,885 which issued on March 27, 2001. The corresponding application was filed by the inventors themselves on September 8, 1999 under Serial No. 09/391,709. I was not an attorney of record in regard to that application, which was prosecuted by the inventors in pro per. It has been common for Messrs. Winefordner and Hermansen to do much of their own work in regard to patent applications in order to reduce attorney fees. I have been happy to assist them to the extent they wished, even though my relationship with them has been somewhat unusual for my practice. In the vast majority of my client relationships, I prepare, file and prosecute patent applications from an informal written or oral disclosure of an invention, consulting occasionally with the inventor as necessary.

4. In October 2007 I learned that some of the Winefordner and Hermansen issued patents, including the 6,205,885 patent had lapsed for non-payment of maintenance fees. Ms. Foreman informed me that she had been instructed by Winefordner and Hermansen that they would be paying their own maintenance fees to avoid our service fees for making those payments. I checked with the client in that regard and was told that they were sure that they had not given her such an instruction. At the time, I was not sure whom to believe since it seemed to me that avoiding service fees would be consistent with the client's prior attempts to minimize their expenses in regard to IP. Moreover, Ms. Foreman had been a trustworthy office manager

DECLARATION OF LEONARD TACHNER Continued
Patent No. 6,205,885

for over twenty years and I had no reason to question her belief that we were no longer responsible for paying maintenance fees for Winefordner and Hermansen. However, in light of the apparent inconsistency between Ms. Foreman and the client in regard to such responsibility, I assumed that there may have been a misunderstanding and on that basis I began working on a petition for delayed acceptance of the maintenance fee for the '885 patent, which petition was filed October 18, 2007.

5. In retrospect, it seemed strange to me that neither we nor the client received a maintenance fee reminder for '885 patent. Ms. Foreman assured me that we had not received such document and the client also has informed me that they had not received such document. Moreover, on July 11, 2008 I learned that the Petitions Office had mailed a written decision (a dismissal) to my office on April 9, 2008. I received a facsimile copy of the decision on July 14, 2008 and read it for the first time on that day. I had not had any knowledge of the content of that decision until July 14, 2008 and I had no knowledge of it being rendered and mailed by the Petitions Office on April 9, 2008 until I checked PAIR for '885 patent on Friday July 11, 2008. Ms. Foreman maintained that the April 9 decision letter was not received by our office until we received the fax copy of July 14, 2008. Attached hereto as Exhibit A is our computer docket sheet for the period April 30, 2008 to June 13, 2008 showing no entry was made for the June 9, 2008 deadline for seeking reconsideration of the April 9, 2008 decision.

6. Because I did not file or prosecute the '885 patent, we have no file history for it. Apparently, Messrs. Winefordner and Hermansen still have the prosecution documents for the '885 patent. We have made a substitute file in which there is only a copy of the issued patent and a copy of our October 2007 petition. Any and all documents that might have been received by our office from the USPTO in regard to the '885 patent should be contained in that file, but there are none.

DECLARATION OF LEONARD TACHNER Continued
Patent No. 6,205,885

7. Ms. Foreman has been a hard-working, dedicated and loyal employee of my firm for decades. I've not previously had reason to doubt her word or question her actions. Ms. Foreman has through many years of her service to the firm and in her relation with clients over that period, convinced me that she could be relied upon to communicate unambiguously with clients and to follow instructions from me and from clients in regard to what to pay or not pay to the Patent Office in behalf of clients. While I did not learn until October 2007 that Ms. Foreman had not paid the maintenance fee for the '885 patent, if she had informed me in 2004 that she had been instructed by the client that they would henceforth pay their own maintenance fees, I would have had no reason to question that instruction because after so many years I had come to rely on her for an accurate and true indication of her communications with my clients.

8. I believe that because Ms. Foreman either did not unambiguously understand the client's instruction or was distracted or confused, or was not functioning in her usually dependable way, the delayed payment of maintenance fees for the '885 patent was unavoidable. I believe that she may have been confused by the fact that the client handled this application without involving our firm in the prosecution or issuance. It was unavoidable because Ms. Foreman was convinced that she had received instructions from the client before the due date of the first maintenance fee that they would subsequently pay their own maintenance fees. It was unavoidable because I was never told that we had received a reminder of maintenance fee due. It was unavoidable because I had come to completely depend and rely on Ms. Foreman and the accuracy of her actions after so many years of reliable and dependable performance.

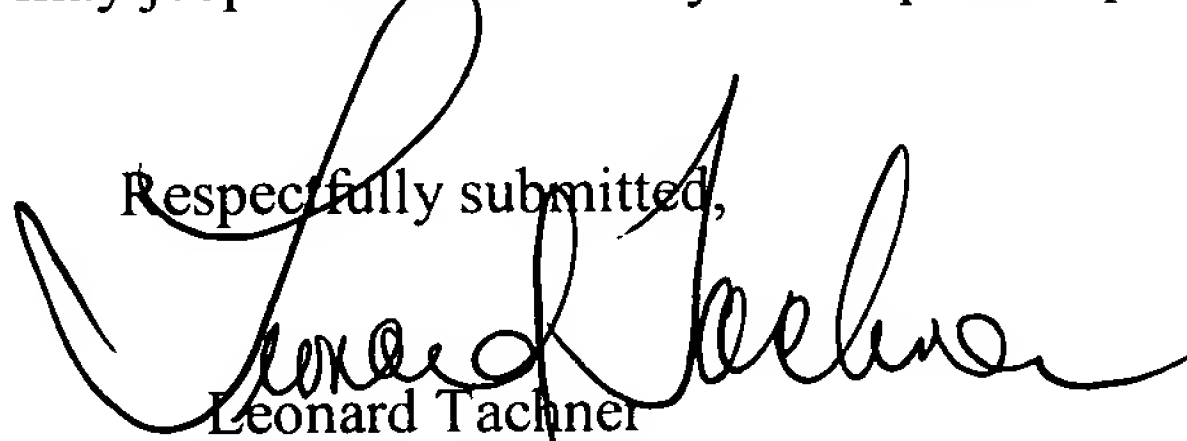
9. I am taking action immediately to reduce Ms. Foreman's duties in the office by taking on some of those obligations myself, by shifting some of Ms. Foreman's duties to our second secretary and by arranging to hire at least one additional staff employee to help. I have also instructed her to always confirm, in writing if possible, that a client does not want us to pay a maintenance fee, even if that is her prior understanding.

DECLARATION OF LEONARD TACHNER Continued
Patent No. 6,205,885

10. I earnestly believe that Ms. Foreman misunderstood the instructions of our client Crank Brothers in regard to who would be responsible to pay their future maintenance fees and particularly the maintenance fees for U.S. Patent No. 6, 205,885. I believe further that this misunderstanding led to a clerical error in our docketing system in the form of an erroneous 2004 entry that the client would pay the maintenance fees for this patent and others of this client in the future. I also believe that because I depend so completely on the reliability of Ms. Foreman in carrying out the instructions of our clients and we depend so completely on our docketing system, that once this erroneous entry was made by Ms. Foreman pursuant to her apparent misunderstanding, our failure to pay the maintenance fee in a timely manner was unavoidable. It was only in October 2007 after we were contacted by Carl Winefordner in regard to the status of the '885 patent, that I realized that there was a problem that had to be remedied as soon as possible.

11. Pursuant to the terms of 28 U.S.C. §1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. The declarations made herein are made with the knowledge that willful false statements and the like are punishable by fine, imprisonment, or both under 18 U.S.C. §1001 and may jeopardize the validity of the present patent.

Respectfully submitted,



Leonard Tachner
Attorney for Petitioner
Registration No. 26,344

Dated:

July 30, 2008

(949) 752-8525 telephone
(949) 955-2415 telefax

WATER-35/TAIWAN Annuities 4-30-2008
 100.335/TAIWAN Annuity Due 4-30-08
 006/USA (5,572,228) Issued Patent/Wave Band 3rd Annuity Due (11.5 yrs.) 5-5-08
JULE-1 TM Renewal Due 5-5-2008
RIFFE-3 Appeal Brief Due 5-5-08
100.227/EPO Annuity Due 5-7-08
ZEVO-2/PCT/AUSTRALIA Annuity Due 5-7-08
ZEVO-2/PCT/EPO Annuity Due 5-7-08
RIFFE-4A Madrid Due 5-8-08
RIFFE-1A Madrid Due 5-8-08
TORT-10 Madrid Due 5-8-08
QTECH-1 First Annuity 5-9-08
PEMBER-7/TAIWAN POWER & CERT. COPY 5-9-08-----SENT 1-18-08
100.146/Taiwan Annuity Due 5-10-08
CHIP-2 PCT & TAIWAN Due 5-11-08
MOSK-166 Issue Fees Due 5-12-08
BOKAM-16 PCT & TAIWAN 5-14-08
GLASS-1 Statement of Use 5-13-08-----Filed Statement of Use 3-19-08
STEPHEN-1 Issued Patent First Annuity 5-16-08
HTR-14/PCT/CANADA Foreign Annuity Due 5-17-08
HTR-14/PCT/DIV/CANADA Foreign Annuity Due 5-17-08
HTR-14/PCT/CHINA Foreign Annuity Due 5-17-08
HTR-10/FWC Issued Patent Third Annuity 5-19-2008
JMC-1/CANADA Foreign Annuity Due 5-19-08
JMC-1/ISRAEL Next Annuities Due 5-19-2008
PEMBER-5 Issued Patent Second Annuity 5-21-2008
MOSK-176 PCT & Taiwan 5-21-08
MOSK-177 PCT & TAIWAN 5-24-08
SHEICO-18/CIP Resp. To 2nd O.A. 5-25-08
WT-5 Resp. To 1st O.A. 5-28-08
GRIP-3 Madrid Due 5-29-08
GRIP-4 Madrid Due 5-29-08
GRIP-5 Madrid Due 5-29-08
GRIP-6 Madrid Due 5-29-08
JMC-1/EPO Foreign Annuity Due 5-29-08
WATER-35-A/TAIWAN Annuities 5-31-2008
FISHER-2/CIP Issued Patent Third Annuity 6-3-2008
SALIDO-6 Statement of Use 6-4-08
GRIP-4 Madrid Due 6-5-08
MERLYN-1-PCT/PHILLIPINES Annuity Due 6-5-08
 317/PCT/JAPAN (511,503/2002) Exam Due 6-6-08
 100.317/PCT/CANADA Annuities Due 6-6-08
ATOMIC-22 PCT & TAIWAN 6-9-08
 094/USA (6,158,245) Issued Patent 2nd Annuity Due (7.5 yrs.) 6-12-08
 068/USA (6,159,398) Issued Patent 2nd Annuity Due (7.5 yrs.) 6-12-08
ASRC-1/AUSTRALIA Foreign Annuity Due 6-13-2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Inventor:	Frank Hermansen et al	Assignee:	California Crank Brothers, Inc.
Patent No.:	6,205,885	Serial No.:	09/391,709
Issued:	March 27, 2001	Filed:	September 8, 1999
Title:	Clipless Bicycle Pedal		

MAIL STOP: PETITIONS

Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED
AUG 12 2008
OFFICE OF PETITIONS

DECLARATION OF CARL WINEFORDNER

Dear Sir:

I, Carl Winefordner, declare as follows:

1. Frank Hermansen and I have a long history with the Law Offices of Leonard Tachner. In all cases involving patents for us, Mr. Tachner's office has paid for our patent maintenance fees, which his office invoices us for (see for example, the attached Exhibit, an October 2001 bill for payment of maintenance fee by Mr. Tachner's office).

2. Somewhat atypically, we have worked with Mr. Tachner in three different ways in regard to obtaining and managing our patents:

a) Mr. Tachner handling the entire patent process including writing the entire patent application, filing the application with the USPTO,

DECLARATION OF CARL WINEFORDNER Continued
Patent No. 6,205,885

handling any office actions, paying the issuing fee, and paying for maintenance fees.

b) Frank and I writing a draft of the patent application (except for the claims), and Mr. Tachner taking over all patent responsibilities including editing the application and writing the claims, filing the application with the USPTO, handling any office actions, paying the issuing fee, and paying for maintenance fees.

c) Frank and I writing a draft of the patent application (except the claims), Mr. Tachner editing the application and writing the claims, Frank and I filing the patent application and paying the issuing fee, and Mr. Tachner's office thereafter taking over all patent responsibilities including paying the maintenance fees. We sometimes worked in this way to save money, as we were a struggling financially up until fairly recently.

3. Frank Hermansen and I have regularly worked with the Law Offices of Leonard Tachner for all of our patent related needs starting in 1995 and up until now. All together, more than 20 US utility patents (and also some design patents and trademarks) have issued during this time with Mr. Tachner as our patent attorney, most of which have been marketed either by licensing, or by making the products.

4. The patent in question here is US 6,205,885. As you will see, by far, this is our single most important patent, which we never intended to become inactive. For this particular patent, we worked with Mr. Tachner using method c) above. Our plan was to turn over this patent to Mr. Tachner as soon as we

DECLARATION OF CARL WINEFORDNER Continued
Patent No. 6,205,885

received the first Office Action, but as it turned out, this patent was approved without any Office Actions. So Frank and I paid for the patent issue fee directly, and then met with Mr. Tachner's secretary, Janis Foreman, and requested that the Law Office of Leonard Tachner take over further responsibility for this patent including future maintenance fees.

5. I am 100% sure that I gave Mr. Tachner's secretary, Janis Foreman, instructions to pay the maintenance fees on our '885 patent and I am without any doubt sure that I never told her that I or we would pay it ourselves. I specifically told Ms. Foreman this in person while Frank and I visited the law office.

6. In 1997, Frank and I started a bicycling related company called Crank Brothers (www.crankbrothers.com) with a single product based on a bicycle tire lever patent that we filed with Mr. Tachner in 1996 (and later issued as 5,857,509). Gradually, Frank and I created more and more products for Crank Brothers, often resulting in patents handled by Mr. Tachner in one of the three methods above. Crank Brothers has steadily grown from \$185,000 in sales during 1997 to over \$11,000,000 in 2007 and an expected \$17,000,000 this year. Our company's success has been almost exclusively due to our proprietary in-house products that Frank and I have created and designed, and the majority of revenue and profit comes from pedals made within our '885 patent. Without a doubt, our intellectual property is our most valuable asset. Our company, and our financial survival, directly depend on our IP, as without it, other companies would copy our products and severely reduce our profits and our way of life. Our products are often more expensive than others on the market, but our products sell because of our proprietary designs.

DECLARATION OF CARL WINEFORDNER Continued
Patent No. 6,205,885

7. We've always felt as inventors that our direct involvement in writing the patent is essential to end up with the strongest possible patent, as during this process of working with our patent attorney; we often discover ways to strengthen the claims and describe alternative embodiments. Due to the small size of our company, and due to the fact that Frank and I have always been and still are the creative force behind the company, we would never consider adding the administrative responsibility of keeping track of and paying for our patent maintenance fees.

8. We started selling '885 pedals in September of 2001, and have sold them continuously up until the present. We always intended for the patent to remain active. The fact is that our '885 pedal sales have increased each and every year starting in 2001.

9. Of all our intellectual property, by far, the single most valuable patent we have is the '885 patent. Currently, we sell around 350,000 pairs of bicycle pedals per year that are protected by this '885 patent. Products protected by this '885 patent account for the majority of Crank Brothers' revenue and profit. Our pedals have become world famous, and the majority of all off-road bicycle professionals use our '885 pedals. More than half of the 2008 Olympic mountain biking riders will be on our pedals, and this is without financial sponsorship from us. The professionals that use our pedals do so because our pedals are simply better by design (lighter and without any problems in mud), as described in our '885 patent. With this design, we have become #1 in sales in the world of premium off-road pedals.

10. However, without our patent '885 being active, without a doubt, other companies will begin to copy our pedals. I am sure that the only reason

DECLARATION OF CARL WINEFORDNER Continued
Patent No. 6,205,885

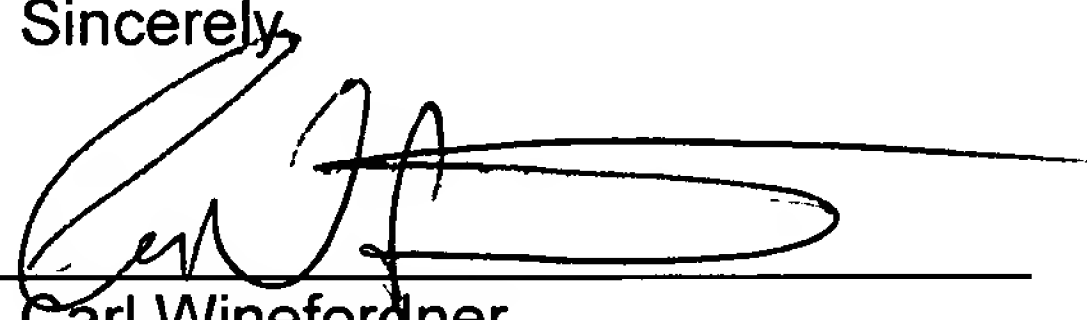
this has not yet happened is because other companies have not yet realized that our '885 patent has become inactive. Loss of the '885 patent will severely impact the revenue of Crank Brothers (and potentially our 15 employees), and of Frank and me personally, and for my wife and children. I have no doubt that without the re-activation of this patent, Crank Brothers will lose many millions of dollars worth of sales over the coming years. The value of this particular patent is millions of dollars.

11. Frank and I specifically communicated to the Law Offices of Leonard Tachner to take over all patent responsibilities and pay the maintenance fees of the '885 patent. Frank and I (and all Crank Brothers people) were completely unaware that this fee had not been paid until October of 2007, and when we discovered it, I immediately contacted the Law Offices of Leonard Tachner to rectify the situation. For Frank and me, unbelievably, Mr. Tachner's secretary was apparently confused over who was to pay for the maintenance fees of this particular patent, possibly related to the fact that Frank and I had filed for this particular patent directly, but then had handed the responsibility over to Tachner's law office. Frank and I never intended for this patent to become inactive, we always intended for the maintenance fees to be paid, and up until October of 2007 we thought the maintenance fees had been paid. Frank and I thought that we were entirely clear with the Law Offices of Leonard Tachner to pay the maintenance fees on this patent, and we were astonished and appalled when we discovered that they had not been paid.

12. This is a case of a clerical error, which could result in a severe hardship for Frank and me. Please allow us to pay the maintenance fees on our '885 patent.

DECLARATION OF CARL WINEFORDNER Continued
Patent No. 6,205,885

13. Pursuant to the terms of 28 U.S.C. §1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. The declarations made herein are made with the knowledge that willful false statements and the like are punishable by fine, imprisonment, or both under 18 U.S.C. §1001 and may jeopardize the validity of the present patent.

Sincerely,

Dated: July 30, 2008
Carl Winefordner

RECEIVED

AUG 1 2 2008

**LEONARD TACHNER
A PROFESSIONAL LAW CORPORATION
REGISTERED PATENT ATTORNEY
17961 SKY PARK CIRCLE
SUITE 38-E
IRVINE, CALIFORNIA 92614-6364**

OFFICE OF PETITIONS

October 15, 2001

**PATENTS
TRADEMARKS
COPYRIGHTS**

**TEL: (949) 752-8525
FAX: (949) 955-2415**

STATEMENT OF ACCOUNT

Mr. Carl Winefordner
Mr. Frank Hermansen
21542 Ann's Lane
Laguna Beach, CA 92651

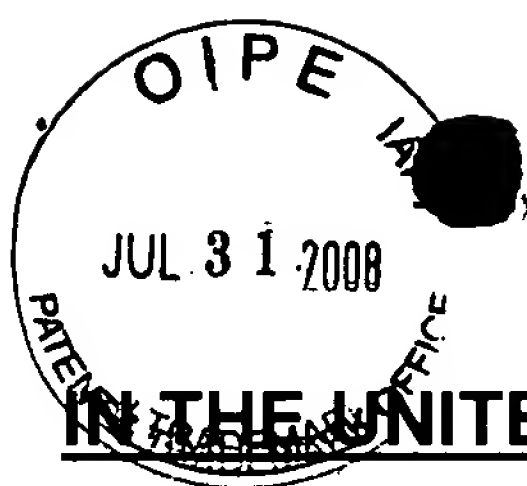
Fees for professional services rendered re:

SLIP-2:

Payment of first annuity in the U.S. Patent and
Trademark Office for U.S. Patent No. 5,676,529
entitled "COMPACT MANUAL AIR PUMP HAVING
SELECTABLE HIGH VOLUME AND HIGH PRESSURE
NODES" by inventors Carl Winefordner and Frank
Hermansen including payment of government
fees (\$440)

(1/3 hr. Atty Time @/\$300/hr.): \$ 540.00

Current Balance Due \$ 540.00



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Frank Hermansen et al	Assignee: California Crank Brothers, Inc.
Patent No.: 6,205,885	Serial No.: 09/391,709
Issued: March 27, 2001	Filed: September 8, 1999
Title: Clipless Bicycle Pedal	

MAIL STOP: PETITIONS

Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED

AUG 1 2 2008

OFFICE OF PETITIONS

DECLARATION OF FRANK HERMANSEN

Dear Sir:

I, Frank Hermansen, declare as follows:

1. The following is my clear recollection of the events regarding the '885 patent. I have carefully read and I agree with every aspect of Carl Winefordner's declaration.

2. Carl and I together have more than 20 U.S. utility patents. The '885 patent stands out in several ways. It is by far our most successful invention and the only patent we have ever received which was approved without any office actions.

DECLARATION OF FRANK HERMANSEN Continued
Patent No. 6,205,885

3. I recall that we paid for the patent issue fee directly and then met with Mr. Tachner's secretary, Janis Foreman, to request that the Law Office of Leonard Tachner take over all responsibility for this patent including payment of future maintenance fees.

4. Carl and I were stunned to discover that the maintenance fee had not been paid in the required way. I am in as much disbelief as Carl, that this could have happened. We made our instructions and intentions very clear to Mr. Tachner's secretary. Obviously we never intended for this patent to become inactive as this invention is the core of our business.

5. I am completely positive that we requested the Law Office of Leonard Tachner to pay the maintenance fees on this patent as I was present during this conversation. I was astonished when we discovered that the fees had not been paid.

6. Pursuant to the terms of 28 U.S.C. §1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. The declarations made herein are made with the knowledge that willful false statements and the like are punishable by fine, imprisonment, or both under 18 U.S.C. §1001 and may jeopardize the validity of the present patent.

Sincerely,

Dated: 7-30-08


Frank Hermansen